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Human Rights Committee

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** The annexes to the present document may be consulted in the files of the secretariat. They are also available on the Committee's website.

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Question 1

Legal framework

- Constitutional reform in the area of human rights, 2011
- Constitutional reform concerning the remedy of *amparo*, 2011
- Refugees, Complementary Protection and Political Asylum Act, 2011
- Migration Act, 2011
- Human Rights Defenders and Journalists Protection Act, 2012
- Regulations implementing the Human Rights Defenders and Journalists Protection Act, 2012
- Regulations implementing the General Act on the Inclusion of Persons with Disabilities, 2012
- Regulations implementing the Refugees and Complementary Protection Act, 2012
- *Amparo* Act, 2013
- Victims Act, 2013
- Regulations implementing the General Act on the Prevention, Punishment and Eradication of Offences of Trafficking in Persons and on Victim Protection and Assistance, 2012
- Regulations implementing the Migration Act, 2013
- Amendment of article 73 of the Constitution, to expedite the adoption of a single legislative text on alternative dispute resolution mechanisms and enforcement in criminal matters, 2013
- National Code of Criminal Procedure, 2014
- National Act on Alternative Dispute Resolution Mechanisms in Criminal Matters, 2014
- Amendment of article 57 of the Code of Military Justice
- Manual on the use of force, applicable to all three branches of the armed forces, 2014
- General Act on the Rights of Children and Adolescents, 2014
- General Act on Transparency and Access to Public Information, 2014
- Regulations implementing the Victims Act, 2014
- Amendment of the fourth and sixth paragraphs of article 18 and article 73 (XXI) (c) of the Constitution concerning the comprehensive juvenile justice system, to expedite the adoption of a single legislative text governing the area of juvenile criminal justice, 2015
- Amendment of article 73 (XXI) (a) of the Constitution, to expedite the issue of general laws establishing, as a minimum, definitions of and penalties for the criminal offences of kidnapping, enforced disappearance, other forms of illegal deprivation of liberty, trafficking in persons and torture or other cruel, inhuman or degrading treatment or punishment, as well as general laws on electoral matters, 2015
- Harmonized protocol for the investigation of offences of torture, 2015
- Harmonized protocol for the investigation of offences of enforced disappearance, 2015
- National protocol on first responders, 2015

- National protocol on courtroom security, 2015
- National protocol on transfers, 2015
- National protocol for police with crime scene processing skills, 2015
- National manual on the chain of custody, 2015
- Regulations implementing the General Act on the Rights of Children and Adolescents, 2015
- Protocol for ensuring respect for the principles and protection of the rights of children and adolescents in migration-related administrative procedures, 2016
- National Act on the Comprehensive Juvenile Criminal Justice System, 2016
- National Criminal Enforcement Act, 2016
- Entry into force of the new criminal justice system, 2016
- General Act on the Prevention, Investigation and Punishment of Torture, 2017
- General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System, 2017

National development, human rights and public policy programmes

- National Development Plan 2013–2018
- National Human Rights Programme 2014–2018, which serves as the guiding human rights instrument, complies with national recommendations and standards, and is designed to consolidate a rights-based society
- National Programme for Equality and Non-Discrimination 2014–2018
- Comprehensive Programme to Prevent, Address, Punish and Eradicate Violence against Women 2014–2018
- Special Migration Programme 2014–2018
- National Programme for the Prevention, Punishment and Eradication of Offences of Trafficking in Persons and for Victim Protection and Assistance 2014–2018
- Special Programme for Indigenous Peoples 2014–2018
- National Programme for the Advancement and Inclusion of Persons with Disabilities 2014–2018

Actions at the state level

1. The National Conference of State Governors, which is composed of the heads of the executive branches of the 32 federative entities, has a human rights commission whose mandate is to harmonize the states' legal systems with international human rights standards. At present, Baja California, Coahuila, Oaxaca, Jalisco, Mexico City, Tamaulipas, Veracruz and Zacatecas have a state-level human rights programme based on the National Human Rights Programme, and a diagnostic study has been prepared with a view to establishing a programme in Tlaxcala. See annex 1 on state-level measures.

2. The constitutional reform of 2011 placed human rights at the centre of the work of the judiciary and made international treaties part of the supreme law of Mexico. In its decision on Miscellaneous Case No. 912/2010 (see annex 2 on other relevant judicial decisions), the Supreme Court, sitting in plenary, ruled that all of the country's judicial authorities should implement ex officio conventionality control of national laws in respect of international treaties.[1] This entails a duty to evaluate the conformity of national laws with international human rights standards, applying the law that offers the greatest

[1] Decision of the Supreme Court sitting in plenary of 14 July 2011, Miscellaneous Case No. 912/2010. Published in the *Diario Oficial de la Federación* (the country's official gazette) of 4 October 2011.

protection to persons and omitting to apply laws that infringe human rights. This judgment was published on 14 August 2015.

3. Between 1 March 2010 and 31 December 2017, Covenant provisions were applied in the following federal-level judgments:

- 10 *jurisprudencias* (sets of five consecutive decisions that become binding case law) of the Supreme Court
- 28 *tesis aisladas* (non-binding decisions) of the Supreme Court

4. Between 1 March and 31 December 2016, Covenant provisions were applied in:

- 59 direct *amparo* cases before collegiate circuit courts
- 20 indirect *amparo* cases before district courts
- 4 criminal cases before district courts
- 29 second-instance federal proceedings before single-judge circuit courts
- 1 second-instance civil/administrative case before a district court

5. The publication of case law issued by the Supreme Court and the collegiate circuit courts in respect of those decisions in which Covenant provisions were invoked and applied ensures that the provisions are disseminated among judicial personnel.

Question 2

6. Article 20 (c) of the Constitution was amended in 2011 to reaffirm and extend victims' rights.

7. The Victims Act was published in January 2013, resulting in the creation of the National Victim Support System as the senior body responsible for coordinating and formulating national public policies and designing more effective programmes and actions for the protection, assistance and support of the victims mentioned in the Act, the defence of their human rights and access to justice, truth and full reparation. The Executive Commission for Victim Support is the System's operational arm.

8. In January 2017, an amendment to the Victims Act was adopted that will make it possible to evaluate and update the implementing regulations and other provisions related to the System's operation with a view to optimizing: procedures for accessing assistance, support and care in cases where victims of offences under state law do not receive support; the right of victims to access independent experts' reports; the organizational structure of the Executive Commission; the specialization of staff; the special protection provided to persons displaced as a result of crime; and the representation of civil society organizations and academics in the Commission, by means of a consultative assembly.

9. Between 2012 and 2014, the Supreme Court published eight procedural protocols to help judges to meet the human rights obligations laid down in the Constitution, and in the relevant human rights treaties to which Mexico is a party, within their area of jurisdiction.[2]

10. As regards the budget assigned for promotion and protection of the human rights covered by the Convention:

- Executive Commission for Victim Support: as at 31 December 2017, the Aid, Assistance and Comprehensive Reparations Fund had a balance of 1.2597 billion Mexican pesos ($Mex) — the result of an income of $Mex 1.6830 billion,

[2] Procedural protocol for justice administrators in cases involving children and adolescents; procedural protocol for justice administrators in cases involving the rights of indigenous persons, peoples and communities; protocol on judging with a gender perspective; procedural protocol for justice administrators in cases involving sexual orientation or gender identity; procedural protocol for justice administrators in cases involving the rights of persons with disabilities; procedural protocol for justice administrators in cases involving migrants and persons subject to international protection; procedural protocol for justice administrators in cases involving acts of torture and ill-treatment; procedural protocol for justice administrators in cases relating to development and infrastructure projects.

comprising an initial contribution of $Mex 0.5 million, $Mex 1.5078 billion corresponding to 0.014 per cent of scheduled expenditure authorized in the Budget of Expenditures of the Federation for the 2014, 2015 and 2016 fiscal years, respectively, $Mex 173.1 million in interest and $Mex 1.5 million in securities and guarantees, and expenditure of $Mex 423.3 million, which includes $Mex 3.8 million paid in trustee fees, $Mex 80.5 million in immediate financial assistance paid to direct and indirect victims, $Mex 296.4 million in compensation payments made as part of the comprehensive reparation provided to direct and indirect victims and $Mex 42.6 million in resources allocated to 11 emergency funds to assist direct and indirect victims.

- Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Services, within the Attorney General's Office: from 2010 to 2017, the Office had a total budget of $Mex 1,797,262,264.00.
- Between 2009 and June 2016, federal resources to the tune of $Mex 20,981,204,254.00 were allocated to support implementation of the adversarial criminal justice system.
- National Human Rights Commission: from 2010 to 2015, the Commission had a budget of $Mex 7,529,037,237.00.

11. The Government held round-table discussions with the competent authorities and civil society organizations (8 June 2016) regarding the contents of this report (see annex 3).

Question 3

12. The National Human Rights Programme 2014–2018 provides for the effective implementation of international recommendations, establishing the lines of action necessary to achieve this end.

13. The Ministry of Foreign Affairs widely disseminates the reports submitted to treaty bodies and the concluding observations issued after the review of these reports through evaluation meetings at which the different actors involved have the opportunity to identify areas in which efforts to fulfil the Government's international obligations should be redoubled.

14. The Ministry, in cooperation with the Centre for Research and Teaching in Economics and the Office of the United Nations High Commissioner for Human Rights country office in Mexico, operates a publicly accessible database containing up-to-date details of the recommendations and observations that the Government receives.[3]

15. The Supreme Court has created an advanced legal search engine for human rights matters[4] which is used to compile and systematize the case law of the Inter-American Court of Human Rights and the general recommendations and observations of all United Nations committees.[5]

Question 4

16. The human rights constitutional reform of 2011 strengthened the legal framework in Mexico by establishing that the authorities' actions must be underpinned by and must adhere to international obligations and standards. The reform also broadened the catalogue

[3] www.recomendacionesdh.mx.

[4] The search engine was launched at the headquarters of the Supreme Court on 4 October 2013 and may be consulted at http://www.bjdh.org.mx/BJDH/.

[5] The search engine is the result of a joint venture of the Supreme Court and the Inter-American Court of Human Rights, with the Office of the United Nations High Commissioner for Human Rights country office in Mexico involved in the second phase. It includes 350 systematized records of rights enshrined in the Covenant, developed from an analysis of the Human Rights Committee's general comments.

of human rights recognized in the international treaties to which Mexico is a party and introduced the *pro persona* principle in the application and interpretation of all laws.

17. The reform provided for the right of all persons to apply for political asylum and to seek refuge on humanitarian grounds; established human rights as an element of social reintegration in the prison system; provided the guarantee of a hearing for the expulsion of non-nationals; empowered the National Human Rights Commission to investigate serious human rights violations, expanding its competence to act into the labour sphere; and established that foreign policy should respect, promote and protect human rights as a guiding principle.

18. The Federal Executive has initiated a series of activities designed to ensure effective implementation of the human rights constitutional reform, focusing on three areas: (i) coordination of efforts to strengthen the implementation process; (ii) training on the constitutional human rights principles for civil servants working in the federal administration; and (iii) dissemination of the content of the reform.

19. The National Human Rights Programme, which entered into force in April 2014, is intended to ensure that the human rights constitutional reform is effectively applied in the formulation of public policy.

20. The reform was publicized nationally through information roadshows coordinated by the state governments of Chiapas, Coahuila, Hidalgo, Jalisco, México, Michoacán, Oaxaca, Puebla and Tamaulipas. The Government also launched a comprehensive training strategy under which more than 25,000 civil servants have received training on the content and scope of the reform.

21. A standing committee was established to review administrative regulations, harmonize them with the human rights constitutional reform and thus strengthen the legal framework for the protection and defence of human rights.

22. An analysis of the implementation of the 2011 human rights constitutional reform, which provided a comprehensive overview of the State, was prepared in 2014, three years after the reform's entry into force (see annex 4).

23. As a result of the conflicting holdings decision 293/2011, two jurisprudential rulings were issued whose application is compulsory for courts throughout the country:

(a) The human rights enshrined in the Constitution and in the international treaties to which Mexico is a State party do not have a hierarchical relationship but constitute parameters for ensuring constitutional regularity, in the light of which the validity of the laws and acts that form part of the Mexican legal order must be examined. When the Constitution provides for a specific restriction on the exercise of human rights, justice officials shall apply the constitutional provision;[6]

(b) The case law of the Inter-American Court of Human Rights is binding upon Mexican judges, irrespective of whether the Mexican Government was a party to the litigation, provided that the said case law is more favourable to the person.[7]

24. The Supreme Court ruled that legal procedures must be interpreted as broadly and as flexibly as possible in order to favour citizens' right to effective legal protection.[8]

25. The National Human Rights Programme 2014–2018 includes a strategy to bring legislation into conformity with the reform. The constitutions of the 32 federative entities have been harmonized with the human rights constitutional reform. In 2012, a trust fund to guarantee compliance with human rights obligations was set up to ensure reparations for human rights violations, in fulfilment of the recommendations and resolutions issued by international bodies and the National Human Rights Commission.

[6] See decision No. P./J. 20/2014 (10a.).

[7] See decision No. P./J. 21/2014 (10a.).

[8] See decision No. P./J. 12/2013 (10a.).

Question 5

26. The following amendments have been made to federal legislation (see annex 5):

- National Code of Criminal Procedure, arts. 1 and 4
- *Amparo* Act, art. 1
- General Act on the Rights of Children and Adolescents, arts. 1 and 2
- Organic Act on the Mexican Navy, art. 1
- Refugees, Complementary Protection and Political Asylum Act, art. 4
- Regulations implementing the Human Rights Defenders and Journalists Protection Act, art. 1
- Regulations implementing the General Act on the Inclusion of Persons with Disabilities, art. 1
- Regulations implementing the General Act on the Rights of Children and Adolescents, arts. 1 and 3
- National Act on Alternative Dispute Resolution Mechanisms in Criminal Matters, art. 2

Question 6

27. The rights of victims set out in the Victims Act should be interpreted in keeping with the Constitution, international treaties and applicable laws on victim support (see annex 6). The main aims of the Victims Act are: (i) to recognize and guarantee the rights of victims of crime and human rights violations; (ii) to initiate and coordinate the actions and measures necessary to ensure that the Government is able to promote, respect, protect, guarantee and enable the effective exercise of victims' rights, and to implement mechanisms that enable all authorities to comply with their obligations in this area; and (iii) to guarantee the effective exercise of victims' right to justice.[9]

28. The Victims Act requires the authorities in all government areas, departments, entities and public and private institutions, within their areas of competence, to ensure the protection of victims, providing aid, assistance and, where appropriate, comprehensive reparation.[10]

29. The Victims Act establishes the following mechanisms: (i) the National Victims Registry, responsible for the process of entering and registering victims of crime and human rights violations in the National Victim Support System; (ii) the Federal Legal Advisory Service, which provides legal advice and representation for victims of crime and human rights violations under federal jurisdiction; and (iii) the Aid, Assistance and Comprehensive Reparations Fund, which provides the resources necessary to ensure aid, assistance and comprehensive reparation for victims of offences under federal law and human rights violations committed by the authorities.

30. The Executive Commission for Victim Support has developed a comprehensive health-care model with a psychosocial, educational and welfare focus in which victims and interested civil society organizations play a part, and a comprehensive victim support model which provides for coordination between federal and state authorities. In this way, the Government works to ensure timely, full, differentiated, transformative, comprehensive and effective redress for the injury suffered by victims.

31. The Commission endeavours to ensure close coordination with victims' groups in cases where several people have been injured by the same act.[11]

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[9] Article 2 of the Victims Act.

[10] Article 1 of the Victims Act.

[11] The "Albergue de la Gran Familia", Iguala and Chilapa cases.

32. The Victims Act has been in force at the federal level since 2013. To date, 30 federative entities have harmonized their legislation with the Act and 10 have amended their laws in accordance with the reform of 3 January 2017. Nineteen local commissions for victim support have been established. The Executive Commission for Victim Support has 15 state offices and 1 local office in different parts of Mexico. On 20 July 2017, at its first regular session, the Commission's Governing Board authorized the establishment of a further eight state offices in Colima, México, Oaxaca, Quintana Roo, San Luis Potosí, Sonora, Tamaulipas and Zacatecas. Furthermore, at its first special session, held on 4 October 2017, the Commission authorized the creation of state offices in Aguascalientes, Baja California Sur, Campeche, Hidalgo, Querétaro, Tabasco and Tlaxcala, with the result that it will be represented in virtually all federative entities. The remaining states are in the process of harmonizing legislation.

Question 7

33. The gender perspective was established as one of the three cross-cutting components of the National Development Plan 2013–2018, giving rise to the National Programme for Equal Opportunities and Non-Discrimination against Women 2013–2018. All sectoral, institutional, special and regional programmes must be aligned with the National Programme's objectives and lines of action, which include action to promote women's rights in the workplace and their right to political participation. The latter objective includes a commitment to increase the participation of Afrodescendent and indigenous women in the political sphere and in representative office.[12]

34. The political and electoral reform of 2014 introduced the principle of parity among candidates for federal and local legislatures, making it obligatory for political parties to respect 50/50 gender parity and the alternation of gender in party lists and to present primary and substitute candidates of the same sex, and providing that the registration of political parties and candidates may be refused as a punishment for non-compliance. Parties are also required to allocate 3 per cent of funding to women's political leadership training, promotion and development. At the state level, in 2015 the High Chamber of the Electoral Tribunal of the Federal Judiciary handed down a judgment in favour of the principle of gender parity in the preparation of lists of candidates for municipal council elections in the states of México, Nuevo León, Querétaro and Sonora.

35. The National Institute for Women has created the Women's Political Participation Observatory, whose objective is to statistically determine the level of women's political participation and access to public decision-making positions.

36. In April 2015, the National Electoral Institute and the National Council for the Prevention of Discrimination launched a guide for public action entitled *Elections without Discrimination*.[13]

37. A protocol to address political violence against women and tackle the obstacles they face in exercising their political and electoral rights was published in March 2016.

38. The federal judiciary has taken steps to identify and change institutional practices that could have an impact on gender equality within the justice system, including establishing:

- The Inter-Institutional Committee on Gender Equality of the Federal Judiciary[14]

[12] National Programme for Equality and Non-Discrimination 2014–2018. Strategy 3.6. Implement measures to reduce inequality in the enjoyment of political rights by persons and groups subject to discrimination. Line of action 3.6.2.

[13] Electronic version available at: http://www.conapred.org.mx/documentos_cedoc/GAP_Elecciones_IMPRENTA_INACCSS.pdf.

[14] Established on 4 May 2010, the Committee includes senior representatives of the three bodies that comprise the federal judiciary — the Supreme Court, the Council of the Federal Judiciary and the Electoral Tribunal of the Federal Judiciary — and is therefore able to respect the autonomy of each of these bodies while setting common goals for gender equality programmes in the federal judiciary.

- The Gender Equality Unit, which is the body responsible for mainstreaming the gender perspective within the Supreme Court
- General Administrative Decision No. III/2012,[15] setting out guidelines for the investigation and punishment of workplace and sexual harassment within the Supreme Court

39. The Supreme Court has developed the following materials:

- An analysis of routes for promotion and obstacles in the career paths of court clerks
- An analysis of the 10 most important judgments on equality and non-discrimination issued by the Supreme Court, in cooperation with the Human Rights Research Centre of the Faculty of Law of the University of Chile
- An assessment of the opportunity gap between men and women working at the Supreme Court

40. The National Conference of State Governors signed a declaration on equality between women and men that provided the basis for creation of the Commission for Equality between Women and Men. The Commission has a broad thematic agenda and a work programme that includes 29 strategies for gender mainstreaming and the elimination of violence and discrimination against women.

41. The National Institute for Women has signed cooperation agreements with the federative entities with a view to strengthening state-level systems for promoting equality, preventing, addressing, punishing and eradicating violence against women and ensuring the entities' active participation in the National System for Equality between Women and Men.

42. To promote the protection of women's and girls' rights in the federative entities, in December 2015 the Ministry of Foreign Affairs and the National Conference of State Governors signed a specific agreement for cooperation in fulfilling the international commitments of Mexico in the area of equality between women and men and non-discrimination in the federative entities.

43. The 2012 reform of the Federal Labour Act expressly prohibited workplace discrimination and inequality based on gender, pregnancy, family responsibilities and civil status and banned employers from requesting a medical certificate of non-pregnancy as a condition for recruitment, continuing employment or promotion. The Act also defines and prohibits sexual harassment in the workplace.

44. Within the framework of the National Programme for Equality and Non-Discrimination 2014–2018, the Mexican Standard on Labour Equality and Non-Discrimination entered into force in 2015, introducing specific provisions to protect and guarantee women's rights, including their right to equal pay for equal work, to protect persons with family responsibilities and to prevent and punish harassment in the workplace.

45. The National Council for the Prevention of Discrimination has instituted proceedings for alleged acts of discrimination arising from the dismissal of women on the grounds of pregnancy (see annex 7). As a result of the 2014 reform of the Federal Act on the Prevention and Elimination of Discrimination, the scope of administrative and reparation measures was extended to cover acts by individuals, including dismissal on the grounds of pregnancy.[16]

46. The National Institute for Women has overseen the following advances in the harmonization of laws in favour of gender equality:

- The 32 federative entities all have laws on women's access to a life free from violence. 30 of them have published regulations implementing these laws,[17] and all 32 have put in place a system to prevent, address, punish and eradicate violence against women.

[15] Published in the *Diario Oficial de la Federación* of 6 September 2012.

[16] Ibid., art. 83 ter.

[17] Campeche and Yucatán have not yet done so.

- The 32 federative entities all have laws on equality between women and men, 8 have published regulations implementing these laws,[18] and 28 have put in place a system for equality between women and men.[19]
- 30 federative entities have laws on the prevention and eradication of discrimination,[20] although only 4 have published implementing regulations.[21]
- 31 federative entities have categorized femicide as a specific offence in their criminal codes; in Chihuahua such acts are defined as "aggravated murder".

47. The Federal Labour Act introduced five days' paid paternity leave for male workers in the event of the birth or adoption of a child.[22] The General Act on Equality between Women and Men was reformed in 2016, establishing the right to a paternity allowance.

Question 8

48. Article 1 of the Constitution prohibits discrimination on the grounds of sexual orientation and under the Federal Act on the Prevention and Elimination of Discrimination of 2014 homophobia and the promotion or practice of physical, sexual, psychological, property-related or economic violence against a person who publicly displays a certain sexual preference are considered to be acts of discrimination. At the local level, 26 federative entities have incorporated anti-discrimination provisions into their constitutions,[23] 18 have prohibited discrimination on the grounds of sexual orientation,[24] all have anti-discrimination laws and 21 have expressly criminalized discrimination.[25] Discrimination has been a federal criminal offence since 2012 and is punishable when committed on grounds of sexual orientation.

49. Following amendments promulgated in 2012, article 2 of the Federal Labour Act defines decent work as work that respects human dignity, that excludes discrimination on any grounds, including sexual orientation, and that guarantees access to social security, remunerative wages and vocational training. Article 3 prohibits employers from setting conditions that might entail discrimination against male and female workers on various grounds, including sexual orientation, that might be detrimental to human dignity.

50. In 2014, the Government issued a decree establishing 17 May as the National Day against Homophobia. President Enrique Peña Nieto instructed the Ministry of Foreign Affairs to recognize and accept birth certificates showing a sex change, without distinction of any kind, in the processing of passports and consuls, in their role as civil registry judges, are permitted to issue new birth certificates recognizing gender identity. Other actions in favour of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons include:

- The National Population Registry has issued a standard birth registration form on which the "father" and "mother" fields are replaced by "filiation details of the person registered" to allow for entry of the names of those who have parental authority in respect of the person being registered. The Ministry of Health has developed a care protocol for LGBTI persons and specific guidelines for each group, so that they can receive care in the National Health System without discrimination.

[18] Coahuila, Durango, Nayarit, Puebla, Querétaro, Quintana Roo, Sonora and Tlaxcala.

[19] Baja California, Michoacán, Tamaulipas and Yucatán have not yet done so.

[20] Nuevo León and Tabasco do not have a law on discrimination.

[21] Chihuahua, Puebla, Querétaro and Zacatecas.

[22] The relevant provision states that the authorities shall: "Contribute to a fairer distribution of family responsibilities, recognizing to biological and adoptive fathers the right to paternity leave and a paternity allowance under the terms of the Federal Labour Act".

[23] Baja California Sur, Campeche, Chiapas, Chihuahua, Coahuila, Colima, Durango, Guanajuato, Guerrero, Hidalgo, Jalisco, México, Michoacán, Morelos, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tlaxcala, Yucatán and Zacatecas.

[24] Baja California Sur, Campeche, Chihuahua, Coahuila, Colima, Durango, Guanajuato, Hidalgo, Jalisco, Michoacán, Nuevo León, Oaxaca, Puebla, San Luis Potosí, Sinaloa, Sonora, Tlaxcala and Zacatecas.

[25] Aguascalientes, Chiapas, Chihuahua, Colima, Durango, Mexico City, México, Michoacán, Morelos, Nuevo León, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán and Zacatecas.

- The Attorney General's Office has developed a protocol for cases involving sexual orientation or gender identity.
- The México sin Discriminación ("Mexico without Discrimination") portal (www.gob.mx/sindiscriminacion) was set up to receive proposals for the revision of potentially discriminatory provisions in the national legal framework.
- With regard to Group 3 (concerning the right to non-discrimination based on sexual preference or orientation or gender identity or expression), the National Council for the Prevention of Discrimination, as the coordinating body, and with inputs from members of the Group, has compiled a glossary of sexual diversity, gender and sex characteristics, for use by the federal administration.

51. The National Programme for Equality and Non-Discrimination, which involves the whole of the federal administration in moving towards equal treatment, includes lines of action to combat discriminatory practices and acts targeting persons on account of their sexual orientation or gender expression or identity.

52. Since 2013, through its distance learning platform Conéctate ("Get Connected"), the National Council for the Prevention of Discrimination has taught an online course for civil servants, based on the contents of the Guide for Public Action against Homophobia, with the goal of training them to prevent and combat homophobia in the provision of services. The platform also offers a course on sexual diversity, inclusion and non-discrimination, which is open to the general public.

53. Between 1 January 2011 and 30 April 2015, the National Human Rights Commission received six complaints of acts of violence against persons from the LGBTI community. Five have been resolved and one is being processed.

54. Annex 8 contains the most significant Supreme Court decisions issued from 2010 to 2016 concerning the prevention of, and effective protection against, violence and discrimination based on sexual orientation or gender.

55. Under the Federal Act on the Prevention and Elimination of Discrimination, the National Council for the Prevention and Elimination of Discrimination is empowered to receive complaints of alleged acts of discrimination against persons on grounds of their sexual orientation or sexual identity. Annex 9 provides the relevant figures.

56. The Attorney General's Office has protocols for gender-focused judicial, police and expert investigations of the offences of femicide and sexual violence, which were published in March 2015. The process of implementing these protocols included holding two training courses, in April 2015, for substantive personnel of the Attorney General's Office and the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons. The protocols have been presented to the National Conference of State Attorneys General.

Question 9

Question 9 (a)

57. The General Act on Women's Access to a Life Free of Violence was published on 1 February 2007. Its aim is to establish the legal and administrative guidelines by which the State, at all three levels of government, coordinates efforts to prevent, address, punish and eradicate violence against women. In January 2013, the Act was amended as follows: (i) a specific reference to the sanctions set forth under article 325 of the Federal Criminal Code was included in the chapter on femicidal violence;[26] (ii) the period for the issuance of protection orders was reduced from 24 hours to 8 hours and provision was made for emergency protection orders to be implemented and enforced immediately; and (iii) the Ministry of Labour and Social Security was included as a member of the National System to Prevent, Address, Punish and Eradicate Violence against Women.

[26] See article 325 of the Federal Criminal Code.

58. As regards the harmonization of legislation at the local level, the 32 federative entities each have laws on women's access to a life free from violence: 31 of them have adopted regulations implementing these laws and Campeche is in the process of doing so. All federative entities have a local system to prevent, address, punish and eradicate violence against women.

59. In 2013, an amendment was made to the regulations implementing the General Act which established an independent mechanism to review requests received from the Gender Violence against Women Alert. The mechanism entails the formation of a working group composed of civil servants, representatives of human rights bodies and academic experts (annex 10).

60. The Comprehensive Programme to Prevent, Address, Punish and Eradicate Violence against Women 2014–2018 was published in April 2014 and is overseen by the National Commission for the Prevention and Elimination of Violence against Women of the Ministry of the Interior. The fruit of an extensive communication exercise which included the exchange of ideas and proposals, the Programme is intended to provide women with tools to enable them to escape the cycle of violence. Its aims also include setting up inter-institutional coordination frameworks in schools, workplaces, health services and the community.

61. The National Data and Information Bank on Cases of Violence against Women (https://banavim.segob.gob.mx/) was developed in 2008 as a technology tool that serves to help to prevent, address, punish and eradicate violence against women. As of December 2016, the Bank had recorded 154,249 cases of violence against women, committed by 152,554 aggressors.

Question 9 (b)

62. The aims of the Subcommittee for Coordination and Liaison to Prevent and Eradicate Violence against Women in Ciudad Juárez, Chihuahua are to plan and follow up on actions undertaken by the three levels of government to combat and eradicate violence against women and to strengthen the promotion and defence of human rights in Ciudad Juárez.

63. The Subcommittee is coordinated by the National Commission for the Prevention and Elimination of Violence against Women and the Women's Round Table Network, which represents civil society organizations. It is composed of representatives of federal and Chihuahua state government departments, autonomous public bodies and civil society organizations.

64. Since 2010, the Subcommittee has: (i) implemented an annual work programme, containing 23 lines of action, that responds to the demands of civil society; (ii) established, in June 2012, a working group on victim support in order to encourage inter-institutional coordination in the resolution of cases of missing women, working directly with the victims' families; and (iii) established, in May 2012, a working group tasked with ensuring civil society participation in the implementation of the Inter-American Court of Human Rights judgment in the case of *González et al. ("Cotton Field") v. Mexico*.

65. The National Commission for the Prevention and Elimination of Violence against Women has an office in Ciudad Juárez that carries out the following actions: (i) ongoing coordination with local civil society organizations, acting as a bridge between them and local and federal government authorities; (ii) work in the framework of the Operation Alba technical cooperation group; and (iii) training for public officials who assist female victims of violence and staff of the state attorneys general's offices and other state government departments.

Question 9.2

66. A reform of the Federal Criminal Code in which femicide was defined as a criminal offence was published in June 2012. The Federal Code of Criminal Procedure, the General Act on Women's Access to a Life Free from Violence, the Organic Act on the Federal Public Administration and the Organic Act on the Office of the Attorney General of the

Republic required amendment and harmonization in order to ensure proper application of the reform and due investigation of the offence and to assign specific powers to the authorities. The reform also established an obligation to develop and apply protocols for the investigation of the offence.

Question 9.3 (a), (b) and (c)

67. See annex 11 for statistics on acts of violence against women.

68. As regards redress and victim support services, the Women's Justice Centres bring together inter-institutional and specialized services in order to facilitate access to justice and provide comprehensive support, with a gender perspective, for women victims of offences of gender-based violence. The National Commission for the Prevention and Elimination of Violence against Women, the Executive Secretariat of the National Public Security Programme, state governments and the United Nations Human Settlements Programme coordinate their work on this initiative through an approach that takes in human rights, gender equality and the best interests of children.

Question 10

69. In 2013, the President presented a draft decree to promulgate the Act providing for the implementation of article 29 of the Constitution that established the following circumstances in which Congress might consider suspending rights and safeguards: (i) invasion and serious disturbance of public order; (ii) serious threats to national security, within the meaning of the relevant law; (iii) serious threats to internal security, in accordance with the applicable legal provisions; and (iv) serious threats to public health, or large-scale natural or man-made disasters with a major impact on the population. The decree also expressly identified those rights that may not be suspended, which include the rights to life, personal integrity and due process.

70. The decree establishes a streamlined, fast-track procedure which gives Congress or the Standing Committee 72 hours to decide on a restriction or suspension; empowers the federal executive branch to establish mechanisms for coordination between the different levels of government in the implementation of measures adopted in the event of suspension; and regulates the Supreme Court's power to review the constitutionality of decrees issued by the Federal Executive during the restriction or suspension of rights. Article 105 (I) and (II) of the Constitution and provisions of the implementing Act determine the procedure for constitutional challenges.

71. In 2015, the Senate approved the Act providing for the implementation of article 29 of the Constitution and brought the bill before the Chamber of Deputies. In December 2016, the Human Rights Commission approved the bill, which is a legislative priority.

Question 10.1

72. No state of emergency has been declared.

Question 10.2

73. Public security is the responsibility of the federal Government, the federative entities and the municipalities, in accordance with article 21 of the Constitution, which covers the prevention of crime through investigation and prosecution, as well as sanctions for administrative offences. Article 21 also stipulates that the prosecution services and police institutions of the three levels of government must coordinate with each other to ensure public security.

74. The National Security Commission ensures that its activities respect the human rights enshrined in the Constitution and international instruments. The federal law enforcement authorities may participate in actions within the remit of the local authorities, on a temporary and extraordinary basis and in full coordination with the state authorities, within the framework of the coordination agreements provided for in the Organic Act on the Federal Public Administration.

75. In 2014, 5,000 officers were recruited into the Federal Police upon the creation of the seventh National Gendarmerie division. The Federal Protection Service had 4,434 officers deployed around the country as at 31 December 2015. The increase in non-military security personnel is part of the Mexican State's efforts to have additional and improved human, technical and logistical resources to tackle organized crime in those areas in greatest need of support and where further work is required in consolidating local institutions.

76. The Mexican army and air force may assume public security functions under article 89 (VI) of the Constitution, which establishes that the President may mobilize the armed forces for internal security purposes.

77. Binding decisions Nos. 36/2000, 37/2000 and 38/2000 of the Supreme Court establish that the armed forces may legally support the civil authorities in public security functions, after receiving a well-founded and substantiated request to do so, whenever the capacity of the civil authorities to react to organized crime has been exceeded. In such event, the armed forces shall act in strict compliance with the law and with respect for the individual guarantees enjoyed by the general population.

Question 11

78. With regard to measures adopted to harmonize abortion legislation across all federative entities, the ninth report submitted by Mexico to the Committee on the Elimination of Discrimination against Women (CEDAW/C/MEX/9) in 2016 highlights that:

- In Mexico City, abortion is legal in the early stages of pregnancy at the mother's request. In the remaining 31 federative entities, the grounds for abortion are regulated in their respective criminal codes (annex 12).
- The General Victims Act stipulates that, in cases of pregnancy as a result of rape, public institutions shall provide voluntary abortion services.
- A specific action programme for gender equality in health for the period 2013–2018 has been published.

79. Actions taken to raise awareness include:

- A nationwide campaign on the prevention of unplanned pregnancy and sexually transmitted diseases, entitled *Es tu vida, es tu futuro. ¡Hazlo seguro* ("It's your life, your future. Make it safe!"). The campaign is supported by radio and television slots, as well as a range of audiovisual materials, including shows.
- The establishment, by the Ministry of Health, of 1,653 youth-friendly units at which gender-responsive sexual and reproductive health services are provided for young people aged between 10 and 19 years old in a confidential and private setting.
- The organization of 11 workshops to raise awareness of childbirth from a gender perspective, attended by 257 medical professionals, and 2 training workshops for trainers, with a total of 56 participants.
- Training courses in gender and health issues within a human rights framework provided at the federal level to 114 people at a time, giving a total of 2,131 participants as at June 2015.

80. Between 2010 and 2016, the Government of Mexico launched the following reproductive health initiatives:

- A specific action programme for family planning and contraception for the period 2013–2018
- A national strategy to prevent teenage pregnancies
- An inter-agency group for the prevention of teenage pregnancies. For support, 30 state groups for the prevention of teenage pregnancies have been established in the federative entities
- A model for comprehensive sexual and reproductive health care for teenagers

- Centralized procurement of high-quality contraceptives by the Ministry of Health with resources from the People's Health Insurance scheme

Question 12

Torture and enforced disappearance

81. In 2015, article 73 (XXI) (a) of the Constitution was amended to empower Congress to issue general laws that, as a minimum, define and punish offences involving, inter alia, enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment. Following the amendment in December 2015, the executive branch submitted to Congress a draft general law on the prevention, investigation and punishment of the offences of torture and other cruel, inhuman or degrading treatment or punishment that will bring the definitions of the offences used in the 32 federative entities into line with international standards. Congress approved the draft law in April 2017.

82. The advances and endeavours mentioned in the seventh report submitted to the Committee against Torture (CAT/C/MEX/7) in 2017 include:

- Promulgation of the General Act on the Prevention, Investigation and Punishment of Torture on 26 June 2017
- Compulsory use of specialist medical and psychological opinions, in accordance with the Istanbul Protocol, in cases of possible torture or abuse
- Promulgation of the General Victims Act
- Establishment of a mechanism to monitor cases of sexual torture inflicted on women
- Creation of special investigation units, at the federal and state levels; of the national preventive mechanism, comprising the National Human Rights Commission itself and the state-level ombudsmen, with the participation of representatives of international organizations, civil society, academics and experts; and of a national register of offences of torture and other inhuman and degrading treatment, which includes the databases of the Office of the Attorney General and local prosecution offices
- Implementation of the harmonized protocol on the investigation of offences of torture on 19 August 2015

83. The follow-up report (CED/C/MEX/CO/1/Add.1) submitted by Mexico to the Committee on Enforced Disappearances acknowledged the challenges faced by the Government of Mexico and highlighted some of the advances made in the area, which include:

- Progress in improving and cleaning the National Register of Missing and Disappeared Persons
- Creation of the Unit for the Investigation of Crimes against Migrants and the Mechanism for Mexican Support Abroad in Search and Investigation Activities
- The activities of the Beta Migrant Protection Groups of the National Institute for Migration
- The regional cooperation initiative between attorneys general and prosecution services in El Salvador, Guatemala, Honduras and the United States of America
- Ongoing work to set up an ante-mortem/post-mortem database and provide training on its use
- Establishment of the Office of the Special Prosecutor for Disappeared Persons
- Approval of the harmonized protocol on the investigation of offences of enforced disappearances

84. Another important advance was the adoption of the General Act on the Enforced Disappearance of Persons, Disappearances Perpetrated by Individuals and the National

Missing Persons System, published on 17 November 2017 and in force since January 2018. Among other things, the Act:

- Standardizes the criminal offence of enforced disappearance throughout the country
- Defines enforced disappearance and disappearance perpetrated by individuals as continuing offences not subject to any statute of limitations, as required by international conventions
- Provides for punishments of between 40 to 60 years in prison and fines equivalent to between 10,000 and 20,000 times the minimum daily wage for persons found guilty of these offences
- Provides for the establishment of a National Missing Persons System, a National Missing Persons Commission, information exchange mechanisms and major national registers
- Orders the establishment of local search commissions at the state level
- Provides for the creation of a forensic register connecting the databases of the national and state forensic registers together in real time
- Establishes penalties for disappearance perpetrated by individuals without the involvement of the authorities of between 25 and 50 years' imprisonment
- Sets out general provisions applicable to persons under 18 years of age

85. From 1 January 2010 to 31 May 2017, there were 195 complaints of abuse of authority and torture allegedly committed by officers of the Federal Criminal Investigation Police.

86. Furthermore, there are 253 open investigations (7 detailed records, 103 preliminary inquiries and 143 case files) on record.

87. See the replies to questions 15 and 16.

Use of force

88. The Manual on the Use of Force applicable to all three branches of the armed forces was published in 2014. It serves as a guide for the action of servicemen and women and covers: (i) the concept and principles of the use of force; (ii) the circumstances in which it is appropriate to use force, and the type of weapons and measures that may be used; (iii) measures to reduce the potential injury to third parties; (iv) identification protocols and methods of dissuasion and persuasion; and (v) responsibilities. According to the Manual, force should be used only with strict regard for human rights, irrespective of the type of assault, and in accordance with the principles of appropriateness, proportionality, rationality and legality, in line with the expert opinions of the National Human Rights Commission, the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Human Rights.

89. In December 2014, the Ministry of Defence:

- Launched the Ministry of Defence Human Rights Programme 2014–2018, which includes objectives, strategies and policies to promote, protect, safeguard and ensure respect for human rights in the army and air force. The Programme is designed to:
    - Bring the administrative regulations of the army and air force into line with the human rights constitutional reform
    - Prevent human rights violations
    - Strengthen the right to non-discrimination in the army and air force
    - Foster the substantive equality of women and men in the army and air force, and
    - Promote and enhance a culture of respect for human rights in the work of men and women in the army and air force

90. The Ministry of Defence promotes and raises awareness of human rights via the Mexican Army and Air Force Studies Centre, which runs courses, workshops and seminars for commanders and officers. Of particular note is the Ministry of Defence Programme to Promote and Strengthen Human Rights and International Humanitarian Law (see annexes 13 and 14).

91. The Ministry of Naval Affairs trains its staff in human rights and the use of force on an ongoing basis. It also works with judicial and non-judicial authorities to implement Directive No. 003/09 of 30 September 2009, which regulates the use of legitimate force in joint operations to uphold the rule of law. The Ministry also employs the Manual on the Use of Force applicable to the three branches of the armed forces, published in May 2014.

92. Decisions Nos. 04/2012 and 05/2012 of the National Security Commission establish the general guidelines regulating the use of force in the police institutions and decentralized bodies responsible for public security and set out general guidelines for the transfer of custody of persons and delivery of property to the competent authorities.

93. Within the framework of the police development system, and together with the International Committee of the Red Cross, the Federal Police has run a training course for trainers on human rights and humanitarian principles applicable to the police service.

94. The Federal Criminal Investigation Police have various action protocols that adhere to the basic principles of human rights and the use of force (including protocols for search, arrest, bringing accused persons to trial, investigation and transferral). Decision No. A/080/2012 sets out the guidelines to be followed by officers of the Federal Criminal Investigation Police in relation to the legitimate use of force and lawful detention. Similarly, training is provided to ensure the proper application of the Istanbul Protocol, the Federal Act on the Prevention and Punishment of Torture and the General Act on Equality between Women and Men.

Question 12.1

95. The General Inspectorate of the Attorney General's Office opened a large number of cases in response to reports of human rights violations allegedly committed by members of the Federal Criminal Investigation Police between April 2010 and April 2015. The General Directorate of Internal Affairs of the Attorney General's Office compiled 122 case files over the same period (annex 15).

96. See annex 16 for convictions at the federal level for enforced disappearance and torture between 2005 and 31 December 2016.

97. The Supreme Court has established the following requirements for the bodies responsible for public security and the use of public force:

(a) A requirement to verify the legality[27] and reasonableness[28] of the use of public force by the police;[29]

(b) A need for separate analysis and assessment of the lawfulness of the use of force by the police at different stages of police action;[30]

(c) A need to establish protocols for action and to train police officers to respond to external stimuli lawfully, only when necessary and in proportion to the circumstances;[31]

(d) Proportionality as a necessary element in analysing the reasonableness of the use of public force by the police;[32]

(e) A need to assess the legitimacy of the use of public force, considering the context in which the police action takes place.[33]

[27] See opinion P. LIII/2010.
[28] See opinion P. LIV/2010.
[29] See opinion P. LII/2010.
[30] See opinion P. LIX/2010.
[31] See opinions P. LVI/2010, P. LXVIII/2010 and P. LXIX/2010.
[32] See opinion P. LVII/2010.

Question 12.3 (c)

98. As part of the drive to reinforce the Government's commitment to providing full compensation to victims of torture and enforced disappearance, the Executive Commission for Victim Support issued 21 decisions that granted comprehensive reparation to 93 victims. The decisions took account of the principle of maximum protection and the need for a differentiated and specialized approach, applying the highest standards of protection in the area and using the *pro persona* principle as a guide.

99. The comprehensive reparation plans incorporate the measures set out in title 5 of the General Victims Act regarding:

- Restitution
- Rehabilitation
- Compensation
- Satisfaction, and
- Non-recurrence

100. See annex 17.

Question 13

101. The General Investigations Coordination Office of the Attorney General's Office has taken on investigations into events probably constituting crimes that date back to the 1960s, 1970s and the beginning of the 1980s. Currently, 275 preliminary inquiries are under way, 247 of which concern investigations into the disappearance of 485 people. The remaining cases concern, inter alia, homicide, abuse of authority and unlawful deprivation of liberty.

102. As part of the 275 preliminary inquiries into the enforced disappearance of individuals, officials at the Federal Prosecution Service have:

(a) Examined, with the assistance of expert photographers, ministerial inspection records and historical documents about events and military operation plans in the State of Guerrero that are stored in the National Archives Office and in the archives of the Ministry of Defence and the now defunct Federal Directorate of Security and the Federal Directorate of Political and Social Investigations, with a view to establishing new lines of investigation;

(b) Compiled ante-mortem data forms with the details of the disappeared persons, including comprehensive information on their physical description, medical history, dental charts and any surgery, scars, fractures, lesions or illnesses, as well as information on the events surrounding their disappearance, including photographs. Officials have so far completed 101 forms, which will be entered into the database (through the ante-mortem/post-mortem software used under the database licence agreement concluded between the Attorney General's Office and the International Committee of the Red Cross on 30 August 2013) so that cross-checks can be carried out at the national level and any matches found can be verified, the aim being to locate the disappeared person;

(c) Created age-progressed images of the disappeared persons; and

(d) Held meetings to provide direct assistance and legal advice to victims and/or family members of disappeared persons with regard to the investigations being carried out.[34]

[33] See opinion P. LX/2010.

[34] Some of those meetings were attended by representatives of the Miguel Agustin Pro Juárez A.C. Human Rights Centre; the Diego Lucero Foundation; the commissioners of the now defunct State of Guerrero Truth Commission; members of the Association of Family Members of Detainees, Disappeared Persons and Victims of Human Rights Violations in Mexico; and the representatives of the organization "Primer Comité en el año 2006 de Defensores en el Esclarecimiento de los años 70 y 74 A.C." (First 2006 Committee of Defenders of the Truth of 1970 and 1974, AC).

103. As part of efforts to locate disappeared persons, five excavations have been conducted in accordance with the model protocol for the forensic investigation of suspicious deaths resulting from human rights violations prepared by Luis Fondebrider (Argentine Forensic Anthropology Team) and Maria Cristina Mendonça (Portuguese National Institute of Forensic Medicine), which has been approved by the Office of the United Nations High Commissioner for Human Rights. The protocol establishes international standards for carrying out excavations and exhumations and is being applied in various areas of the municipality of Atoyac de Álvarez, Guerrero.[35]

104. As a result of the steps taken by the General Investigations Coordination Office of the Attorney General's Office, two victims have been located:

(a) Rogelio Betancourt Díaz, arrested on 14 November 1979. When he was found, he stated that he was arrested but does not remember the exact date. He moved house for fear of being arrested again;

(b) Gabino Organista Zamora, who belonged to the Lucio Cabañas Barrientos revolutionary movement, was never detained. He moved to the city of Lázaro Cárdenas, Michoacán, where he currently lives.

105. An officer of the former Federal Directorate of Security has been convicted of an offence of enforced disappearance. The officer was working during the "Dirty War" that took place during the 1970s and 1980s.

106. The State of Mexico has made the following progress in complying with recommendation No. 26/2011 of the National Human Rights Commission concerning the victims of enforced disappearance in the 1960s and 1970s:

- The Ministry of the Interior has awarded damages in 116 of the 275 proven cases. In 2011 and 2012, financial compensation was paid in 55 cases, with a further 32 cases being settled in 2014.
- A trust fund to guarantee compliance with human rights obligations was set up in 2012. The fund's mandate was extended in 2014 in order to provide compensation pursuant to the recommendations of the National Human Rights Commission. Compensation is paid to the indirect victims, given that the majority of victims covered by the recommendation were subjected to enforced disappearance and there is no information about their current whereabouts. The previous administration paid out US$ 1.7 million in reparations in 55 cases. To date, Mex$ 46,346,615.41 have been awarded through the trust fund.

Question 14

107. Various armed civilian groups emerged as a result of insecurity in certain municipalities in Michoacán. The federal Government, at the express request of Michoacán State government, signed an agreement that laid the foundations for providing public security assistance.

108. The Federal Police took control of public security in municipalities with the highest crime rates and conducted permanent surveillance operations in coordination with the

[35] (i) From 7 to 27 July 2008 (before the judgment of the Inter-American Court of Human Rights), an external expert in geophysics, authorized by the Federal Public Prosecutor's Office, was hired to identify key areas for excavation using ground-penetrating radar; (ii) from 18 to 29 October 2010, an archaeology expert from the Guatemalan Forensic Anthropology Foundation was appointed by the team; (iii) from 31 October to 12 November 2011, four specialists in archaeology and physical anthropology from the National Anthropology and History Institute took part in the investigations. The subsurface was scanned with the ground-penetrating radar borrowed from the National Anthropology and History Institute in the presence of a geologist from the Earth Sciences Research Centre of the Autonomous University of the State of Hidalgo. An archaeology expert from the Guatemalan Forensic Anthropology Foundation was present. From 20 May to 1 June 2013, excavations were conducted at the sites identified by the scan by the ground-penetrating radar borrowed from the National Anthropology and History Institute, with the support of five specialists — two in archaeology, two in physical anthropology and one in geology — from the Institute.

authorities at the three levels of government. This action served to limit the incidence of crime, owing to the presence of the authorities and the prompt response they were able to give to citizens' reports. The Federal Police developed close cooperative links with members of the public, encouraging them to file reports and cementing trust in the security institutions.

109. Through the strengthening of public security institutions and the administration of justice, the demands of the armed civilian groups have been met. Only those persons who fulfilled the necessary requirements were officially involved in police operations in their community.

Question 15

110. As mentioned in the reply to question 12, the General Act on the Enforced Disappearance of Persons was adopted in November 2017. The Act provided for the establishment of a new public policy focused on searching for and locating disappeared persons, and the creation of four key tools:

(a) The National Missing Persons System, which will ensure the immediate mobilization of public security agencies, the justice system and specialized staff following reports of disappearances. Its objective is to guarantee a comprehensive, timely and swift institutional response in the hours following the disappearance, which are the most critical for finding or providing assistance to victims;

(b) The National Register of Missing and Disappeared Persons, containing updated information from hospitals, detention centres and federal and local forensic services that will enable families to follow up on their reports of disappearances;

(c) The National Forensic Register, which will use the latest advances in science and technology to facilitate the location and identification of missing persons;

(d) The National Citizens' Council, made up of human rights defenders, experts and relatives of victims, which will provide advice and issue opinions to the National Missing Persons System.

Question 15.1

111. The Attorney General's Office has a special prosecutor for disappeared persons who has the authority to lead, coordinate and oversee investigations to search for and locate disappeared persons — and where applicable, to identify them forensically — as well as to prosecute disappearance-related offences. The Office of the Special Prosecutor is working to set up a national register of clandestine graves and a DNA databank that will be the most complete in Latin America and has plans to use drones to locate victims.

112. The National Register of Missing and Disappeared Persons was set up in 2011 under an agreement adopted at the National Conference of State Attorneys General and was strengthened and consolidated by the Act on the National Register of Missing and Disappeared Persons of 17 April 2012. According to the statistical system set up pursuant to the Act, as of December 2015, 27,659 persons had been reported as disappeared or missing (26,670 by the ordinary courts and 989 by federal courts). These figures were compiled by the Attorney General's Office on the basis of information provided by the offices of the attorneys general and the prosecution services of the federative entities.

113. The information held in the Register is public and anyone can monitor the addition and deletion of entries. The Register can be consulted on the website of the Executive Secretariat of the National Public Security System (www.secretariadoejecutivo.gob.mx), which manages a single database containing details of all persons reported missing before and after 2012. It is important to note that the vast majority of cases listed in the Register are not investigations into enforced disappearances.

114. On 26 October 2015, as part of the National Plan for the Search for Missing Persons, the Attorney General's Office launched an ante-mortem/post-mortem database — a research and technological tool that makes it possible to manage and systematize

information on missing persons and human remains, as well as on the circumstances surrounding their disappearance and, where applicable, the places where they were found.

115. The Attorney General's Office trains the staff responsible for managing the database and takes the action necessary to adapt and standardize formatting so that all national databases containing forensic information can be integrated.

116. In December 2014, the authorities approved a harmonized protocol for the investigation of offences of enforced disappearance by prosecutors, experts and police officers, which incorporates investigation criteria in line with national and international standards and recommendations. Designed for the use of the Public Prosecution Service and its personnel, the protocol was adopted in 2015. A harmonized protocol for the search for disappeared persons and investigation of offences of enforced disappearances has also been issued.

Question 16

Question 16.1 (a)

117. In April 2017, the Congress adopted the General Act on Torture, which defines torture as:

> "the conduct of a public servant who, for purposes of obtaining information or a confession, for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a means of coercion, as a preventive measure, or for reasons based on discrimination, or for any other purpose:
>
> I. Inflicts physical or mental pain or suffering on a person;
>
> II. Engages in conduct that is designed to, or has the potential to, diminish or obliterate the victim's personality or physical or mental capacities, even if it does not cause pain or suffering; or
>
> III. Performs medical or scientific procedures on a person without his or her consent or without the consent of the person legally empowered to grant such consent.
>
> Also considered to have committed an act of torture is any individual who:
>
> I. Commits any of the acts described in the preceding article with the authorization, support or acquiescence of a public servant; or
>
> II. Is involved in the commission of any of the acts described in the preceding article, regardless of the degree of authorship or participation".

Question 16.1 (b)

118. As mentioned in the seventh report of Mexico to the Committee against Torture (CAT/C/MEX/7), various activities have been undertaken to ensure that torture is properly investigated, including:

- Introducing greater specialization in investigations;
- Issuing guidelines for federal prosecutors, forensic medical experts and coroners on the use of expert medical/psychological evaluations of possible torture or ill-treatment;
- The provision, by the General Office for the Coordination of Expert Witness Services of the Criminal Investigation Agency of the Attorney General's Office, of direct support to the federal prosecutors who consider complaints, in the form of expert medical/psychological evaluations of possible torture or ill-treatment;
- The decision, by the Supreme Court, that investigations should take into account the severity of physical or mental harm, the intent of the agent and the purpose; and the recognition of the prohibition of torture as an absolute right recognized and

protected in accordance with the constitutional and international treaty framework. The act of torture constitutes both a human rights violation and a criminal offence;[36]

- The coordination, by the National Human Rights Commission, of action taken in exercise of the powers granted to national preventive mechanisms pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. To this end, the Commission has issued statements addressed to state governments, recommending the steps necessary to ensure that legislation on the prevention of torture conforms with international instruments, in particular the Convention against Torture.

Question 16.1 (c)

119. The Attorney General's Office has started to make audiovisual recordings of interrogations conducted by prosecution service staff and police officers.

Question 16.1 (d)

120. Annex 18 contains the report published by the Criminal Investigation Agency regarding the number of expert medical/psychological evaluations of possible torture or ill-treatment.

121. The Attorney General's Office has issued institutional guidelines for federal prosecutors, forensic medical experts and coroners and other personnel on the use of expert medical/psychological evaluations of possible torture or ill-treatment. The guidelines meet international standards. The General Directorate of Forensic Medical Services monitors the methodology used in expert medical/psychological evaluations of possible torture.

122. The continuous medical education programme run by the Ministry of Defence on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) ensures that staff responsible for certifying the physical condition of persons examined remain impartial and objective. Since June 2005, annual courses/workshops on medical examinations, the documentation of torture and forensic investigation of deaths suspected of being the result of human rights violations have also been held.

123. During its visits to places of detention, the national preventive mechanism checks whether examinations to identify torture or ill-treatment are performed upon admission for all detained persons, and if so, whether they are conducted in accordance with the Istanbul Protocol.

Question 16.1 (e)

124. The Supreme Court has issued two rulings determining that evidence, including confessions, that is obtained under duress, including through torture or cruel, inhuman or degrading treatment, must be rejected and excluded from the process.[37]

Question 16.2 (a)

125. The Attorney General's Office has established that the General Inspectorate, the Office of the Assistant Attorney General for the Investigation of Federal Crimes, the Office of the Assistant Attorney General for Regional Oversight, Criminal Procedure and *Amparo*, and the Office of the Assistant Attorney General for Human Rights, Crime Prevention and Community Service shall receive and investigate complaints of torture when the alleged perpetrators are public servants, if they relate to the National Human Rights Commission, or if the military courts have declined jurisdiction. See annex 19.

[36] See Opinion 1a. CCVI/2014 (10a.); 1a. CCVII/2014 (10a.); 1a. LVII/2015 (10a.); 1a. LIV/2015 (10a.); 1a. CXXXVI/2015 (10a.); 1a. CXCV/2013 (10a.); 1a. CLXII/2011; 1a. CLXVII/2013 (10ª); 1a./J. 121/2009; 1a./J. 7/2014 (10a.); 1a. CCI/2014 (10a.); 1a. CCII/2014 (10a.); 1a./J. 35/2015 (10a.); 1a./J. 34/2015 (10a.); 1a. CCVI/2014 (10a.); 1a. LVII/2015 (10a.); 1a. LIII/2015 (10a.); 1a. CCCLXXXIII/2014 (10a.); and 1a./J. 139/2011 (9a.).

[37] Supreme Court Opinion Nos. 2008/505 and 2006/482.

126. Since the establishment of the Special Unit for the Investigation of Offences of Torture, 3,058 preliminary inquiries have been initiated and 853 case files have been opened that involve offences of torture. Arrest warrants have been issued by the federal judicial authority in 14 of the preliminary inquiries.

127. The General Directorate for Consideration of and Follow-up to Recommendations and Settlements in the Field of Human Rights has launched 93 preliminary inquiries into possible cases of torture since its establishment in 2013.

128. Annex 20 contains information relating to the administrative investigations into allegations of torture in the Internal Affairs Unit of the Federal Police between January 2015 and 31 December 2016.

129. The launch of an administrative investigation in the Internal Affairs Unit does not necessarily signify that the alleged perpetrators are responsible, or that they have engaged in the conduct of which they stand accused. However, compelling evidence is sought throughout the investigation with a view to verifying the allegations.

130. Concerning the recommendations made by the National Human Rights Commission in relation to torture, see annex 21.

Questions 16.2 (b) and (c)

131. The General Directorate for Consideration of and Follow-up to Recommendations and Settlements in the Field of Human Rights of the Attorney General's Office has to date launched 93 preliminary inquiries into possible cases of torture. Of this total, 29 cases were joined with others, 3 were reviewed and approved for criminal proceedings, 48 were determined to be misconduct, and 2 were subject to criminal proceedings.

Persons sentenced for offences of torture	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*	*Total*
	0	1	2	1	6	12	4	26

Question 16.2 (d)

132. The Inspectorate General of the Attorney General's Office recorded 83 complaints of acts committed for the purpose of obtaining a confession or other evidence, and 14 complaints that led to the disallowance of a confession or other evidence.

Question 17

133. The General Act on the Rights of Children and Adolescents of December 2014 provides for the physical and psychological protection of children and establishes that legislation should protect children against any form of abuse, violence, ill-treatment, harm, assault, injury, harassment, exploitation or corporal punishment by persons exercising the function of parent, guardian or custodian.

134. The Act provides for the establishment of offices for the protection of children and teenagers as administrative units within the National System for the Comprehensive Development of the Family and its counterparts in the federative entities. The offices are under an obligation to ask the competent prosecution service to order appropriate emergency special protection measures whenever there is an imminent risk to the life, integrity or liberty of children and teenagers.

135. Regulations implementing the General Act on the Rights of Children and Adolescents were issued in December 2015. The regulations assign duties to the offices and organizational units responsible for monitoring and ensuring compliance with all requirements related to the care, guardianship, protection and support of children and teenagers. They also regulate the National Information System and national registers and databases containing information on children and . enagers, set forth the requirements for federal and international adoption procedures, thereby establishing greater legal clarity in

this area, and set out the manner in which support for migrant children and teenagers should be coordinated.

136. Also in December 2015, the President of the Republic formally established the National System for the Comprehensive Protection of Children and Adolescents, which is the most important mechanism linking public and private authorities and civil society. The System will allow for coordinated management of resources benefiting children, the aim being to bring positive changes to the day-to-day lives of Mexican children and teenagers.

Question 18

137. The report submitted by Mexico to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/MEX/3, replies to paragraphs 11, 13, 14 and 36 (h)) highlighted the following measures taken:

- The adoption of the Migration Act in 2011
- The regulations implementing the Migration Act
- The agreement establishing operating standards for migrant holding centres and short-stay facilities managed by the National Institute of Migration
- The agreement establishing the National Institute of Migration's guidelines for the protection of migrants
- The General Act on the Rights of Children and Adolescents and its implementing regulations
- The appointment of child protection officers, who are federal migration officers trained by the National Institute of Migration to safeguard the human rights of migrant children and teenagers, with special attention paid to unaccompanied minors
- The adoption of two differentiated National Institute of Migration procedures for assisting unaccompanied migrant children and teenagers, one focused on Mexican nationals and the other on foreign nationals
- The establishment of special prosecutors for offences committed against immigrants
- The agreement establishing operating standards for migrant holding centres and short-stay facilities managed by the National Institute of Migration (2011)
- The establishment of the Unit for the Investigation of Crimes against Migrants and the Mechanism for Mexican Support Abroad in Search and Investigation Activities within the Attorney General's Office (December 2015)
- Beta Migrant Protection Groups
- The protocol for assisting unaccompanied or separated migrant children and teenagers placed in shelters
- The regional cooperation initiative agreed between prosecutors and attorneys general of El Salvador, the United States of America, Guatemala and Honduras
- The Coordinating Office for an Integrated Approach to Migration on the Southern Border
- Government mechanisms for documenting migration, including visiting frontier worker cards and regional visitor cards, for which nationals of Guatemala and Belize are eligible and which provide legal safeguards allowing foreign nationals to reside lawfully in the states of Chiapas, Campeche, Tabasco and Quintana Roo
- The protocol for ensuring respect for the principles governing the rights of children and teenagers in migration-related administrative procedures, which is designed to uphold the rights of migrant children and teenagers to legal safeguards and due process during migration-related administrative proceedings

138. See annex 22.

Question 19

139. The Constitution provides that, in cases involving organized crime, the judicial authority may, at the request of the Public Prosecution Service, order that a person be held in preventive custody, in a place and for a period of time provided by law, subject to a maximum of 40 days, provided that such custody is necessary to ensure the efficacy of the investigation or to protect persons or legal rights, or where there is a well-founded risk that the accused may evade justice. The maximum term may be extended only if the Public Prosecution Service provides evidence that the causes at the origin of the measure still exist, in which case the total duration of the preventive custody may not exceed 80 days.

140. In accordance with the constitutional reform, use of preventive custody as a precautionary measure has been restricted to cases involving offences related to organized crime. Pursuant to article 20 of the Constitution, incommunicado detention, intimidation and torture are prohibited, and suspects must be informed of the charges against them and the rights available to them to guarantee their access to an adequate defence. The Constitution also provides for the establishment of supervisory courts to serve as independent and specialized federal judicial authorities responsible for dealing promptly with preventive custody applications. The functions of supervisory courts include preventing any infringement of the rights of suspects and victims in legal proceedings and overseeing the lawfulness of the proceedings.

141. Preventive custody is used only in exceptional cases:

Persons detained in preventive custody	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*	*Total*
	1 982	2 385	1 641	627	289	84	25	7 033

142. Preventive custody is an exceptional precautionary measure, the validity and legality of which is considered on a case-by-case basis.[38] An office of the Human Rights Protection Unit has been set up within the Federal Preventive Custody Centre, which provides assistance to persons subject to this measure and to members of their families.

Question 20

Question 20 (a)

143. The National Prison Information Register is a database forming part of the Mexico Platform that holds information on persons detained in the country's various prisons. The database has different sections, containing information provided by preventive bodies, prosecution bodies, justice administration institutions, social rehabilitation institutions and, generally speaking, any institution that provides data on investigations, preliminary inquiries, arrest warrants and detention orders, sentencing and/or sentence enforcement. The Register currently contains 1,827,505 historical records of persons who have been prosecuted, sentenced and released. This number includes the country's 217,868 current inmates.

144. The National Conference of Prison Services is the body responsible for overseeing the integration of the data contained in the Register and for establishing tools to ensure the coordination, cooperation and communication with the three branches and levels of government required to facilitate the compilation and consolidation of the necessary information. Through national and regional conferences, special sessions and round tables, and by submitting requests to the various units involved in information integration, it has been possible to implement the following five measures:

- Agreement No. 06/XI/08 of 8 December 2014, updating the National Prison Information Register Guidelines

[38] See *Amparo* review proceeding 1250/2012 settled by the plenary session of the Supreme Court of Justice.

- Agreement No. 07/XI/08 of 8 December 2014, updating the 41 mandatory fields relating to the social rehabilitation centres of the federative entities
- Agreement No. 05/CNSP/EXT of 20 April 2015, disseminating the draft National Prison Information Register Guidelines proposed by the National Security Commission
- Dissemination of the Covenant provisions among staff of the Autonomous Agency for Social Rehabilitation and the federative entities, in order to improve the quality of Register information and biometric records
- Communication No. SEGOB/CNS/OADPRS/CNSP/SE/0998/2014 of 27 August 2014, requesting prison directors to provide the information required by the Register within the first five days of each month

Question 20 (b)

145. Article 18 of the Constitution establishes that alternative forms of justice should be used whenever appropriate, particularly in the juvenile justice system. The General Act on the Rights of Children and Adolescents also provides that minors should not be deprived of their liberty but should instead benefit from social assistance and other alternatives to custody. The aim of the National Act on Alternative Dispute Resolution Mechanisms in Criminal Matters, promulgated on 19 December 2014, is to encourage dispute resolution wherever possible so that alternative penalties to deprivation of liberty may be applied.

146. The new criminal justice system has helped to reduce the use of pretrial detention. In those states in which the system is used, pretrial detention currently represents only 19.52 per cent of all precautionary measures ordered by judges. It is ordered on an exceptional basis and only when other precautionary measures — such as being required to check in regularly with the appointed authority and/or to provide a financial surety and being banned from leaving the country without authorization — are deemed insufficient.

Question 20 (c)

147. Between 2012 and 2015, federal prison capacity was increased by more than 22 per cent. Nine federal social rehabilitation centres (one each in Morelos, Michoacán and Ramos Arizpe, plus six in the Papantla Complex) are under construction, and will provide additional capacity of more than 9,600 places. This will help to improve conditions of detention and social reintegration and will ease the pressure on State systems.

148. A continuous transfer programme has been instituted to improve the distribution of the prison population. Between January 2010 and December 2016, 14,340 individuals were transferred. See annex 23.

149. Catering in the federal social rehabilitation centres is contracted to private companies on the basis of a service provision contract. A food monitoring programme is implemented by the centres' administrative and medical staff, who assess the process from receipt of ingredients, checking the food's quality, state of preservation, sensory properties, storage, presentation, preparation and distribution to prisoners, and verifying the adequacy of portion sizes.

150. Regular checks are also carried out on the food served to individuals deprived of their liberty who have medically prescribed special diets. The hygienic handling of food is monitored in line with Mexican Official Standard No. NOM-251-SSA1-2009.

151. As for medical services, the Federal Facilities General Coordinating Office has launched a pilot project involving the provision of highly specialized telemedicine consultations under a partnership agreement concluded between the Autonomous Agency for Prevention and Social Rehabilitation and the highly specialized regional hospital in Ixtapaluca, State of Mexico.

152. Comprehensive health teams provide round-the-clock cover in the federal social rehabilitation centres, guaranteeing the right to health. The teams provide dental, radiographic, psychiatric, optometric and neurological services; endoscopies; gastroenterological care; ear, nose and throat treatment; clinical analysis; general medicine;

general surgery; parasite elimination; obesity control; health promotion and prevention campaigns; and vaccinations.

153. Prisons run various educational training, recreation and sports programmes. Prison population statistics can be found in annex 24.

Question 20 (d)

154. Article 6 of the Act establishing Minimum Standards for the Social Rehabilitation of Convicted Persons states that women must be held separately from men and specifies the infrastructure, knowledge and trained personnel necessary to ensure the appropriate care of children who live with their mothers and the availability of a comprehensive programme of activities. It also establishes that children and juveniles in conflict with the law must be held in separate facilities from adults. In addition, detention centres for women must provide the necessary medical and gynaecological services and, where required, specialized pre- and post-natal care.

155. In accordance with the above, Federal Social Rehabilitation Centre No. 16 (Morelos Women's Prison, located in the municipality of Coatlán del Río, Morelos State) has facilities that allow for appropriate and efficient classification of women deprived of their liberty, including in pretrial detention, in conditions that guarantee their safety and ensure that they are classified in line with their criminal profile.

Question 20 (e)

156. In the federal facilities that make up the Federal Prison System, the aim is to guarantee respect for the human rights of women deprived of their liberty, acting always according to the guiding principles of lawfulness, efficiency, professionalism and honesty. Active checks are made to ensure that the staff of these facilities refrain from inflicting physical or psychological abuse on the inmate population and from committing acts that might cause injury of any form or undermine personal dignity. Any form of cruel and inhuman treatment, punishment or torture is prohibited, as is the use of violence against women deprived of their liberty.

The legal and administrative provisions that govern the Federal Prison System establish penalties for any person who violates their content, independently of any administrative or criminal proceedings that might be brought by other legislative bodies.

Question 21

157. The Decree amending, repealing and adding various provisions to the Code of Military Justice, the Federal Code of Criminal Procedure and the Act establishing Minimum Standards for the Social Rehabilitation of Convicted Persons, published in 2014, amended various legislative instruments pertaining to military justice and brought military legislation into line with the criminal constitutional reform of June 2008.

158. Prior to this reform, the Supreme Court issued criteria for determining the competency of the courts in cases of crimes committed by the military.[39] As a result, the scope of military jurisdiction was delineated based on two fundamental guiding principles:

- In a democratic State governed by the rule of law, military criminal jurisdiction should have a restrictive and exceptional scope. Military personnel on active duty should only be tried for crimes or offences that by their nature infringe legally protected interests of military order.
- Under no circumstances may military jurisdiction prevail in situations where the human rights of civilians are violated. This exclusion applies not just to cases of torture, enforced disappearance and rape, but to all human rights violations. Civilian victims have the right to participate in criminal proceedings not only to obtain compensation but also to exercise their rights to truth and justice.

[39] See Opinion P. VI/2013 (10a.), Opinion P. II/2013 (10a.) and file Miscellaneous No. 912/2010.

159. Regarding the investigation and prosecution of offences handled by the Military Prosecution Service, the Decree amending, repealing and adding various provisions to the Code of Military Justice, the Federal Code of Criminal Procedure and the Act establishing Minimum Standards for the Social Rehabilitation of Convicted Persons (2015) establishes that, once the Military Prosecution Service becomes aware that a civilian has been implicated in the commission of an offence, it must refer the matter ex officio to the civil justice system. The guidance issued by the Supreme Court establishes that competency will be transferred to the ordinary federal courts when offences are committed by serving military personnel, provided that none of the legally protected interests of the military are infringed.

160. It is important to note that the Ministry of Defence and the Attorney General of the Armed Forces assist in the investigations carried out to determine which court should hear and prosecute cases that are referred to the civil courts on competency grounds. However, in accordance with the provisions of article 21 of the Constitution, the Public Prosecution Service is the only body mandated to prosecute criminal cases. Accordingly, the Attorney General must approve all actions taken and ensure that neither the human rights and personal safeguards of the individuals involved nor the principles of due process have been violated.

161. Since the amended Code of Military Justice was published in June 2014, military judicial institutions have ceded competence to civil judicial institutions in 25 criminal cases. The military courts have also transferred 1,173 preliminary inquiries and, since 16 June 2017 — the date on which the new Military Criminal Justice System became operational — 130 case files.

Question 22

162. On 18 June 2016 the new criminal justice system became operational throughout the country, meaning that the mixed inquisitorial system was abandoned in favour of an oral, adversarial system guided by the principles of openness, right to reply, unified submission of evidence, continuity and promptness set out in article 20 of the Constitution. In order to regulate the new model, 21 federal laws were created or revised and more than 350 local laws were amended. The most important of these legislative reforms were the promulgation of: the National Code of Criminal Procedure, in March 2014, which standardized procedures throughout the country, thereby endowing them with legal certainty; the National Act on the Comprehensive Juvenile Criminal Justice System; the National Act on Alternative Dispute Resolution Mechanisms (December 2014); and the National Criminal Enforcement Act (June 2016).

163. In order to support implementation of the new criminal justice system, the Technical Secretariat of the Coordinating Council created to oversee the new system's implementation has provided training and technical assistance. In the past eight years, over Mex$ 21,000 million have been invested in the implementation of the reform.

164. As at the end of 2015, training had been provided to 134,176 officers of the criminal justice system, and online training on core aspects of the new system had been provided to 47,762 officers, academics and candidate lawyers throughout the country via the Technical Secretariat's educational platform. For state and municipal police officers, the National Council for Public Security has approved a special plan for criminal justice training and basic police skills, which involves the deployment of capacities and resources across the three levels of government in order to ensure that 333,865 local police officers have the basic skills necessary for adversarial criminal proceedings, based on the national protocols for first responders and for police officers with crime scene processing skills and the national manual on the chain of custody.

165. Benefits of the new criminal justice system:

(a) Under 10 per cent of cases will come to trial, meaning that over 90 per cent will be resolved by due process judges through alternative means of dispute resolution and summary trials;

(b) All criminal cases will be resolved in less than 365 days. Summary trials and alternative means of dispute resolution take between half and a third of the time needed for an ordinary trial;

(c) Quality justice can be administered more expeditiously and transparently;

(d) The cost of criminal proceedings has fallen. Under the previous system, criminal proceedings cost an average of Mex$ 15,198 (pre-1993 Mexican pesos) per case, whereas, currently, resolving a criminal matter through alternative mechanisms costs Mex$ 1,566 per case.

(e) The use of pretrial detention has been reduced.

166. The Council of the Federal Judiciary has adopted a general training programme that will serve as a means for selecting the judicial and administrative personnel required to operate the new system and has designated the Institute of the Federal Judiciary as the training body. The training began in 2008, with specialist training, diploma courses, seminars, round tables, conferences and courses being offered in remote or open classroom format. Over 100 events and courses had been carried out by June 2016.

167. The launch of the new criminal justice system necessitated the availability of appropriate physical infrastructures in functional and secure facilities for persons giving evidence in hearings, judicial and administrative personnel and the general public. The Federal Centres for Criminal Justice were designed to meet this need. These buildings contain courtrooms that are equipped with video recording and process management systems, with suitable provision made for protection and custody, and are staffed by the number of legal practitioners necessary based on the workload of each case. As of June 2016, the federal judiciary had 118 district judges specialized in the new criminal justice system operating in 38 Federal Centres for Criminal Justice in 32 states (3 in Mexico City, 2 each in Baja California, Tamaulipas and Veracruz, and 1 in each remaining state, including in the archipelago of the Islas Marías). By the end of 2018, the federal judiciary will have 44 Federal Centres for Criminal Justice containing181 courtrooms and staffed by 310 specialized district judges.

168. The Code of Criminal Procedure, which standardizes criteria for the application of criminal law in Mexico, was published in 2014. In the federative entities, 96 per cent of local legal systems have now been harmonized with the Code of Criminal Procedure.

169. The Code of Criminal Procedure is underpinned by respect for human rights and the principles of due process enshrined in the Constitution and the international human rights treaties to which Mexico is a party. The Code's provisions are designed to clarify the facts, identify responsibilities and repair harm by establishing the standards to be observed in the investigation, prosecution and punishment of offences committed in Mexico that fall under the competency of local and federal courts. The Code also establishes guidelines that encourage the use of alternative dispute resolution mechanisms while respecting human rights, and regulates aspects of investigations that are associated with possible human rights violations or that affect due process.[40]

170. Defendants' statements may be taken only before a public prosecutor or in court, fully respecting his or her rights, in the presence of his or her counsel, and without the use of acts of torture to extract confessions. Evidence obtained through human rights violations must be dismissed ex officio by the judicial authority at all stages of the proceedings, in contrast to evidence that does not satisfy procedural requirements. The Code also establishes standards for criminal suits brought by individuals, procedures for persons immune from prosecution and procedures for members of indigenous communities.

[40] Searches, interception of private communications and information technologies, arrest warrants and detention orders, sample taking without the consent of the defendant, investigation records, evidence from investigations, body searches, interviews with witnesses and suspects, and suspect identification.

Question 23

171. The General Act on the Prevention, Punishment and Eradication of Trafficking in Persons and on Victim Protection and Assistance (the Trafficking in Persons Act), which repealed the Trafficking in Persons Act of 2007, has been in force in Mexico since June 2012. The Act establishes the material elements of offences of human trafficking, which consist of all intentional acts or omissions committed by one or more persons for the purpose of exploitation. It specifies various forms of the offence: trafficking for sexual exploitation, labour exploitation, slavery, serfdom, forced labour or services or forced begging; trafficking of persons under 18 years of age for use in criminal activities, illegal adoption or forced or servile marriages; trafficking in the organs, tissues and cells of living human beings; and unlawful biomedical experimentation on human beings.

172. The Act's implementing regulations, published in September 2013, establish the bases for Federal Government coordination in the prevention, monitoring, investigation, prosecution, elimination and punishment of offences related to human trafficking. The Senate is currently considering an amendment to the Act that would broaden the scope of human trafficking offences to include additional means of commission.

173. In the drive to prevent offences of trafficking, the National Programme for the Prevention, Punishment and Eradication of Trafficking in Persons and for Victims Protection and Assistance 2014–2018 assigns specific functions to each Government unit in the country.

174. In February 2014, a memorandum of understanding was signed between the Attorney General's Office and the International Centre for Missing and Exploited Children that made official the participation of the Mexican State in the Global Missing Children's Network, a global movement to protect children and teenagers from going missing or being sexually exploited. In May 2014, Mexico joined the Global Alliance against Child Sexual Abuse Online.

175. In April 2014, guidelines for monitoring classified advertisements were published to provide the Ministry of the Interior with a formal framework for monitoring classified advertisements published in any communication media that might encourage or promote the commission of any human trafficking-related offence and reporting any such advertisements to the Attorney General's Office through the intermediary of the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons.

176. Regarding complaints mechanisms, the Citizens' Complaint and Help Centre puts any calls related to offences that fall under the jurisdiction of the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons through to the telephone hotline centre in order to ensure that the callers receive immediate attention.

177. An Inter-Ministerial Commission for the Prevention, Punishment and Eradication of Trafficking in Persons and the Victim Protection and Assistance has been established. The Commission is responsible for defining, coordinating and implementing State policy for preventing, eradicating and punishing offences of trafficking in persons.

178. In order to ensure effective implementation of and compliance with the National Programme, the Commission is working with the National Conference of State Governors to establish inter-ministerial or inter-institutional committees on trafficking in persons in all 32 federative entities. To date, 24 committees, councils and inter-ministerial bodies on human trafficking have been established.

179. In 2015, the bodies represented on the Commission held 195 awareness-raising events (courses, conferences, workshops, talks, round tables and plays) aimed at promoting learning and experience sharing and consolidating mechanisms for cooperation and collaboration.

180. Regarding prevention, all constituent units of the Commission were involved in implementing the campaign developed by the National Human Rights Commission, relaying the same messages throughout the country in all 32 federative entities.

181. The Commission has approved the following instruments:

- Assistance and protection framework for victims of trafficking offences, which sets out operational procedures for inter-institutional coordination designed to ensure effective protection and assistance for victims of trafficking in persons
- Protocol for the use of procedures and resources for the rescue, assistance and protection of victims and possible victims of offences under the Trafficking in Persons Act
- General guidelines for the construction, operation and functioning of shelters and halfway houses for victims of trafficking in persons

182. As part of its migration monitoring activities, the National Institute for Migration visits establishments throughout the country to carry out migration checks and reviews to verify the immigration status of foreign nationals living there and ensure that those whose immigration status in the country is irregular do not fall victim to abuse or offences such as trafficking in persons on account of their vulnerability. Between 2012 and March 2017, 3,090 visits to check migration status were carried out.

183. Regarding care, protection and assistance for victims of trafficking in persons, the National Security Commission, the Executive Commission for Victim Support, the Attorney General's Office, the National Institute for Migration, the Ministry of Social Development, the National System for the Comprehensive Development of the Family and the Department of Health have coordinated their efforts to give effect to the rights set out in the General Victims Act. On this basis, support has been provided to 407 victims, who received medical, psychological and social care, legal assistance, food, accommodation and transport. Of this total, 253 victims were referred to specialized institutions for health care, legal assistance and shelter, and 123 had been rescued through successful operations.

184. In 2015, the following regulations were drawn up to coordinate the activities of the authorities at the three levels of government:

- Systematic procedure for handling cases of trafficking in persons, covering operations, detection, investigation, safe extraction and victim care
- Inter-institutional operational protocol for the Guanajuato State agency covering prevention, detection, protection and the care of women, men, children, juveniles and members of other vulnerable groups who are victims of offences under the Trafficking in Persons Act
- Protocol for the provision of comprehensive care, training and job placement services for trafficking victims in the State of Coahuila de Zaragoza

185. The following tools for the care and protection of victims have also been approved and adopted for implementation:

- National Security Commission programme to eradicate trafficking in persons
- Department of Health framework for providing comprehensive health care for trafficking victims in federal reference hospitals
- Ministry of Tourism National Code of Conduct for the protection of children and adolescents in the travel and tourism sector, updated in 2015

186. The Attorney General's Office, the Ministry of Labour and the National Security Commission have carried out checks in public establishments to stop activities that encourage or constitute offences relating to trafficking in persons. The checks led to 198 reviews and operations and the provision of care to 309 victims.

187. In exercise of the functions conferred upon it by law, the Special Unit for the Investigation of Trafficking in Persons, Children or Organs established within the Attorney General's Office initiates, collates and rules on the merit of preliminary inquiries and case files connected with the above-mentioned offences.

Question 23.1

188. Federal and state authorities have identified 6,845 victims of trafficking in persons (annex 25).

189. Between 1 January 2011 and 30 April 2015, the National Human Rights Commission received 89 complaints relating to trafficking in persons. Of the persons concerned, 114 were Mexican, 21 Guatemalan, 13 Honduran, 6 Salvadoran, 4 Venezuelan, 3 Colombian, 2 Brazilian, 2 Chinese, 2 Cuban, 1 Dominican, 1 Polish, and 1 Russian. The remaining four were of unknown nationality.

Question 23.2 (b)

190. From 2013 to 2016, 3,305 preliminary inquiries and/or case files were opened at the national level, as a result of which 840 persons were remanded for trial and 319 were arrested.

191. At the state level, from 2012 to 2016, a total of 596 sentences were handed down, consisting of 416 convictions, 166 acquittals and 14 mixed sentences. At the federal level, over the same period, 28 sentences were handed down, consisting of 22 convictions, 5 acquittals and 1 mixed sentence. Annexes 26 and 27 provide further detail on the sentences handed down to perpetrators, including convictions and sanctions.

Question 23.3 (c), (d) and (e)

192. In 2009, the Attorney General's Office established a specialized shelter to provide comprehensive support to victims of extreme gender violence and trafficking in persons. The purpose of this temporary space is to protect, assist and aid the recovery of victims using a multidisciplinary approach that incorporates a gender perspective, prioritizes personal development and encompasses social work and medical, psychological and pedagogical care. Besides the provision of shelter, other immediate protective measures may be ordered in urgent cases, without the need for formalities or to adhere to standard time frames. Victims' cases are followed up individually after they have left the shelter.

193. The National Institute of Migration has taken various measures to combat the smuggling and trafficking of persons and to assist foreign victims in Mexico, having introduced specific procedures for victim detection, identification and support. Foreign nationals identified as victims of trafficking in persons are guaranteed a place in a shelter or specialized institution and are assisted until their migration status has been resolved. Foreign migrant children and teenagers identified as possible victims of trafficking are assisted by staff of the National Institute of Migration who specialize in child protection. They are also immediately referred to the National System for the Comprehensive Development of the Family or another competent institution that can provide them with support.

194. The procedure for the assisted return of persons aged over 18 years old is initiated at the specific request of the foreign national concerned, fully respecting their human rights. Particular attention is paid to vulnerable persons, endeavouring to ensure that members of the same family travel together, and consular or migration officials from the destination country are involved. Children and teenagers are assisted by child protection officers throughout the migration-related administrative procedure and, in the event of assisted return, are accompanied until they reach their country of origin. Staff of the National Institute of Migration designated to accompany foreign victims of crime to their countries of origin or residence are responsible for their safety and well-being and must ensure that their rights are respected at all times. Under article 113 of the Migration Act, where foreign nationals have been victim or witness to serious offences committed in Mexico and, owing to their emotional state, are unable to decide whether they wish to return to their country of origin or remain in Mexico, the Institute arranges for them to stay in specialized public or private institutions equipped to provide the support that they need. If such persons have regular migration status in the country or have been regularized by the Institute within the meaning of the Migration Act, the Institute can refer them to specialized bodies to receive any assistance that may be necessary.

195. In coordination with the Attorney General of the State of Chiapas, in 2015, the National Institute of Migration launched a programme to identify and detect criminal organizations involved in the extortion and assault of migrants in the cities of Tapachula,

Huixtla and Arriaga (Chiapas), as a result of which 58 persons had been convicted by the end of December of the same year.

196. Between 2013 and March 2017, the National Institute of Migration provided assistance to 2,514 foreign nationals, of whom 99 were victims of human trafficking, 1,061 were victims of abduction and 1,354 were victims of other offences (assault and robbery). It also granted the status of visitor for humanitarian reasons to a total of 78 foreign nationals and repatriated a further 21 victims to their countries of origin by the assisted return process.

197. The National Institute of Migration participates in the AMBER Alert Mexico national programme, fulfilling its commitment and duty to cooperate with other member agencies. In implementation of the national protocol, it is working with the Attorney General's Office and the attorneys general of the federative entities to issue real-time alerts through the National AMBER Alerts Committee with a view to identifying children and adolescents who claim to have been removed from Mexico for the purpose of human trafficking. To help locate minors who are missing or have been abducted in Mexico, or who claim to have been returned illegally, immigration alerts remain active across the country 24 hours a day, 365 days a year.

Question 23.4

198. Between January 2011 and May 2017, the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons organized 104 training activities on trafficking in persons for prosecution service officials, police officers and experts working in attorneys general offices and public prosecution services, as well as judges and magistrates from the judicial branch.[41]

199. The Federal Police has also provided training in the following areas:

- Trafficking in persons
- Human rights of migrants and combating trafficking in persons
- Human rights of victims
- Seminar on the human rights of victims
- Fundamentals of human rights
- Human rights
- Combating and preventing torture
- Seminar on human rights and victims
- Seminar on human rights and gender equality
- Guidelines on the legitimate use of force
- Human rights of vulnerable population groups
- Human rights and enforced disappearance
- Human rights, lawful detention and the legitimate use of force

The Mexican Government is working on a systematic operational programme to detect and investigate cases of trafficking in persons and to rescue and support victims of such crimes.

[41] The activities were conducted in the federative entities of Aguascalientes, Baja California, Baja California Sur, Chiapas, Chihuahua, Coahuila, Mexico City, Mexico State, Guanajuato, Guerrero, Hidalgo, Jalisco, Morelos, Querétaro, Quintana Roo, Sinaloa, Tabasco, Tlaxcala, Veracruz and Yucatán, and in Chicago and Washington, United States, and El Salvador and Costa Rica. As a result of these activities, training was provided to 5,263 persons (2,895 women and 2,368 men).

Question 24

200. The expulsion of foreign nationals is provided for in article 33 of the Constitution, which states that: "The executive branch of the Union shall be empowered, following a hearing, to expel foreign nationals from the national territory pursuant to the law, which shall regulate the administrative procedure as well as the place and duration of detention."

201. To implement this provision, in October 2013, the President of the Republic submitted to Congress a draft decree adopting the Act implementing article 33 of the Constitution. The draft was duly approved and signed by the Senate before being referred to the Chamber of Deputies (acting as review committee) for analysis and discussion on 14 December 2015. Until the implementing Act is adopted, the National Institute of Migration must guarantee the right to a hearing within the meaning of article 33 of the Constitution and transitional provision V of the human rights constitutional amendment.

202. Article 143 (3) of the Migration Act provides that decisions issued by administrative authorities may be appealed by legal challenge or judicial review.

Question 25

203. The Ministry of Defence allows conscientious objection to military service on an exceptional basis: "Exemption from completing national military service shall be granted on grounds of physical or mental incapacity and on grounds of moral impediments to persons aged over 40 years old and in possession of a military service record; to naturalized Mexicans aged over 40 years old and not in possession of a military service record; to Mexicans that acquire or have acquired another nationality; to ministers of religion; to the children of foreign nationals; and to Mennonites."[42]

Question 26

Question 26 (a)

204. As of October 2017, the National Protection Mechanism for Human Rights Defenders and Journalists had received requests for protection measures from 513 individuals and, as a result, had granted protection to 298 journalists and 215 human rights defenders. Annex 28 shows the number of cases handled by the Mechanism since 2012.

205. The National Protection Mechanism coordinates the actions taken by the Ministry of the Interior, the Attorney General's Office, the Ministry of Foreign Affairs, the National Security Commission, the National Human Rights Commission, non-governmental organizations and the federative entities to protect the lives, physical integrity, freedom and safety of persons who are at risk as a consequence of defending and promoting human rights or exercising their freedom of expression.

206. The National Protection Mechanism is composed of:

- The **Governing Board**, the main decision-making body, which decides on and modifies preventive and protective measures, evaluates urgent measures and approves manuals and protocols on preventive, protective and urgent measures, the rules of operation and the budget of the Human Rights Defenders and Journalists Protection Fund
- The **Advisory Council**, which comprises representatives of civil society organizations specializing in defending human rights and promoting freedom of expression
- The **National Executive Coordination Office**, under the responsibility of the Ministry of the Interior and responsible for coordinating the Mechanism's work with federative entities, federal government agencies and independent organizations,

[42] https://www.gob.mx/sedena/acciones-y-programas/excepciones-del-servicio-militar-nacional (Spanish only).

which consists of a reception and immediate response unit, a risk assessment unit, and a prevention, monitoring and analysis unit

207. The Human Rights Defenders and Journalists Protection Act and its implementing regulations provide that beneficiaries of the Mechanism, accompanied by their representatives, may participate in: the submission and agreement of requests for measures; the preparation of risk assessment studies; and the presentation of their cases at meetings of the **Governing Board**. This participation ensures that protective measures are analysed, determined, implemented and assessed in agreement with the beneficiaries.

208. The independent organization Freedom House recently assessed the Mechanism's methods of work and internal procedures with a view to improving its operation and effectiveness, incorporating a gender perspective in its analyses and decisions, strengthening its preventive activities (including by introducing an early warning system) and addressing shortcomings in its risk assessments.[43]

209. On 17 May 2017, the President of the Republic undertook to strengthen the structure and budget of the National Protection Mechanism for Human Rights Defenders and Journalists and to establish a national system for coordinating with the states as well as an operating protocol.

210. Following this pledge, the Ministry of the Interior held a meeting with government ministers of the federative entities at which it was agreed that the Mechanism should be strengthened and that a catalogue of information on journalists and human rights defenders who might be at risk in Mexico should be compiled. Those present at the meeting also proposed taking action to strengthen coordination with the states' protection systems and mechanisms, highlighting that the aim for Mexico is to protect human rights defenders and journalists, to prevent attacks against them and to guarantee all resources required to deal with such attacks. As each federative entity will form a unit of the National Protection Mechanism, its staff will receive training from the National Executive Coordination Office on how to prepare risk assessments and how to use and follow up on protection measures, among other things.

211. The first training course on the integration of state units for the protection of human rights defenders and journalists was run in the state of San Luis Potosí in July 2017. The aim of the course was to strengthen the capacity, resources and knowledge of staff with a view to better protecting journalists and human rights defenders.

212. On 16 July 2013, the Government of Mexico established the Human Rights Defenders and Journalists Protection Fund, with resources earmarked exclusively for the implementation and operation of the protection measures approved by the National Protection Mechanism. As at 31 December 2016, the Fund had an asset value of Mex$ 296,412,612.11. The Fund's resources have been used to implement protection measures approved by the Mechanism's Governing Board and its various units. A total of 651 protection measures have been approved, of which 547, or 84 per cent, have been put into practice.

Early warnings and contingency plan in the State of Veracruz

213. In October 2015, an assessment of the situation of journalists in the State of Veracruz was published and an inter-agency cooperation agreement was signed to implement a programme of public policies benefiting journalists working in the state of Veracruz. Guidelines were drafted to provide journalists with guarantees as to news coverage and to promote, protect and guarantee their freedom of expression in the State. The guidelines served as a basis for the formulation of public policy actions aimed at minimizing risk for journalists in the State of Veracruz.

[43] As at January 2014, a total of 115 requests for protective measures filed in 2012–2013 lacked risk assessments. For 89 of these, no initial assessment had been performed; for the remaining 26, the risk assessment was no longer valid. The submission of new requests to the mechanism was also taken into account, with an average of eight applications being submitted each month and the number of cases requiring reassessment likewise increasing.

Early warnings and contingency plan in the State of Chihuahua

214. In July 2016, the Governing Board approved an assessment of the situation of human rights defenders and journalists in the State of Chihuahua and instructed the National Executive Coordination Office to submit a draft contingency plan agreed with the authorities in Chihuahua and at the federal level.

215. It was concluded that human rights defenders were exposed to risks related to femicide; the vulnerability of migrants, sexually diverse groups and maquiladora workers; the environment; the situation in the Sierra Tarahumara; and violations of freedom of expression. In October 2016, the National Protection Mechanism ran a workshop to identify practical ways of addressing the structural causes of the risks, which will be submitted to the executive, legislative and judicial powers of the State of Chihuahua for comments and approval.

Question 26 (b)

216. As at 31 May, the Office of the Special Prosecutor for Offences against Freedom of Expression had assumed jurisdiction over 48 investigations initiated in various federative entities, most of them concerning ordinary offences (annex 29).

217. The Office of the Special Prosecutor and the National Protection Mechanism's Executive Coordination Office communicate regularly, particularly through the Case Processing and Rapid Response Unit, with a view to reaching prompt decisions on the emergency protection measures to be granted to persons who find themselves in hazardous situations by virtue of their work. Where actions, omissions or acquiescence cause physical, psychological, emotional or economic injury, the Office of the Special Prosecutor provides guidance and refers petitioners to the Case Processing and Rapid Response Unit so that the National Protection Mechanism can register their requests.

218. The importance of the Office of the Special Prosecutor for Offences against Freedom of Expression, established within the Attorney General's Office, lies in the scope of the protection it is authorized to provide. Agreement No. A/145/10, establishing the Office of the Special Prosecutor for Offences against Freedom of Expression, provides that any person involved in providing information or forming opinions through the media may be considered a victim of crime.

Question 26 (c)

219. The Office of the Special Prosecutor for Offences against Freedom of Expression is building a database for recording, monitoring and following up on criminal proceedings initiated on the basis of its investigations, and for recording information on sentences and compensation awarded to victims. See annex 30.

Question 26 (d)

220. The Government of Mexico decriminalized defamation, libel and slander — so-called honour crimes — at the federal level by virtue of an order published on 13 April 2007. On 29 April 2013, the plenary of the Chamber of Deputies adopted a resolution calling on the local congresses of those federative entities in which defamation and other honour crimes remained criminal offences to repeal the provisions in question and to take the legislative measures necessary to harmonize local laws with national and international provisions in this area.

Question 27

221. Article 4 of the Constitution, as amended and published in June 2014, gives constitutional status to the right to identity, establishing that: "All persons shall have the right to identity and immediate registration at birth. The State shall guarantee the fulfilment of these rights. The competent authority shall issue, free of charge, the first certified copy of the birth certificate."

222. Hence, citizens have acquired the following new rights in respect of identity:

(a) To be registered free of charge;

(b) To obtain the first certified copy of their birth certificate free of charge;

(c) To be registered immediately and free of charge.

223. In January 2015, the 31 state governors, the head of government of Mexico City and the Ministry of the Interior signed a cooperation and coordination agreement making it possible to consult and print certificates on an interstate basis under the "Your birth certificate, wherever you are" Programme, leveraging information technology systems to make the civil registry service more accessible, secure, flexible and reliable. The programme has allowed for more than half a million civil status documents to be printed within Mexico and through Mexican consulates abroad, using the interconnected databases of the federative entities.

224. As part of efforts to implement the National Campaign for Universal and Timely Birth Registration, the "Full Development of the Family" model, consisting of hospital-based civil registration units, was approved to allow for timely registration of birth on the basis of the constitutional amendment relating to the right to identity. This model encompasses both the actions required of public officials and the care received by pregnant women from the antenatal stage.

225. Through the Campaign for the Free Registration and Provision of Birth Certificates (the "Be registered, be protected" Campaign), launched in 2010, the National Human Rights Commission has been promoting the right to identity for children and teenagers and alerting them to the need to exercise this right and register births as a means to ensure full enjoyment of their basic rights.

Question 28

226. Since 2012, 150 free, prior and informed consultation processes have been conducted in accordance with the provisions of article 7.3 of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the related standards established by the Inter-American Court of Human Rights concerning projects and activities subject to environmental impact assessment procedures.

227. In 2012, the Supreme Court handed down two decisions that fully recognize the right of indigenous peoples to consultation.[44] The first relates to a lack of prior consultation in the environmental impact study for the Independencia Aqueduct project, which affects the Yaqui Tribe in the town of Vicam, Sonora. The second confirms that the Congress of the State of Michoacán should have consulted with indigenous communities before making changes to its local constitution. The Supreme Court has also drafted a protocol for use in relation to development and infrastructure projects to provide justice officials with the tools to carry out their functions on the basis of international best practices in the adjudication of matters involving members of indigenous peoples and communities.

228. On 4 November 2015, the Supreme Court ruled on seven *amparo* appeals lodged by the Mayan communities of Campeche and Yucatán[45] against the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food in relation to the issuance of a permit to Monsanto Corporation allowing for the release of genetically modified soya into the environment during commercial operations. The appeals cited as grounds the lack of free, prior and informed consultation with the indigenous peoples, in contravention of their rights.

229. The Court ruled that the responsible authorities were obliged to consult communities in accordance with international standards on indigenous rights and had violated the right of indigenous peoples and communities to be consulted. It ordered that the permit should be

[44] In accordance with ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. See *amparo* review No. 631/2012 and constitutional challenge No. 32/2012.

[45] *Amparo* review Nos. 198/2015, 241/2015, 270/2015, 410/2015, 498/2015, 499/2015 and 500/2015.

declared null and void.[46] The cases gave rise to five precedential decisions on indigenous consultation.

230. In February 2013, the Advisory Council of the National Commission for the Development of Indigenous Peoples[47] adopted a protocol for consultation with indigenous peoples and communities that is consistent with the standards set out in ILO Convention No. 169.

231. The protocol sets out the methodological elements required in a consultative process; thus, it is a tool for the realization of indigenous peoples and communities' right to be consulted and to participate prior to the issuance of permits, concessions, licences and authorizations in respect of lands inhabited by indigenous peoples. The protocol can be activated at the request of the parties concerned. The National Commission for the Development of Indigenous Peoples currently provides technical and methodological assistance in its capacity as technical advisory body and has provided technical advice to the ministries for energy, environment, communication and transport, and various federal commissions, within their spheres of competence, for the development of specific protocols. To date, 36 protocols have been established.

232. The constitutional amendments affecting energy issues provide for the right of indigenous peoples and communities to be consulted. The Hydrocarbons Act and the Electricity Industry Act require that prior consultations should be held in connection with hydrocarbon and electricity industry projects that may affect the rights and interests of indigenous communities. The two Acts, both published in October 2014, include provisions on the prior consultation procedure that are consistent with the standards of the inter-American human rights system, the provisions of ILO Convention No. 169, and the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

233. Annex 31 provides examples of prior consultations.

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[46] *Amparo* review No. 270/2015.

[47] The Advisory Council is the body of the National Commission for the Development of Indigenous Peoples responsible for consultation and interaction with indigenous peoples, society and the three *government bodies formed* in accordance with article 12 of the Act on the National Commission for the Development of Indigenous Peoples. It comprises — for its fifth term (2015–2018) — 210 advisers, of whom 146 are indigenous persons. Three councillors representing people of African descent in Mexico participate as guests.